

रजिस्टर नं० पी० 461.



राजपत्र, हिमाचल प्रदेश

(अमाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

चिमला, बुधवार, 24 फरवरी, 1971/5 फाल्गुन, 1892

GOVERNMENT OF HIMACHAL PRADESH

LAW DEPARTMENT

NOTIFICATION

Simla-2, the 8th February, 1971

No. 6-2/69-I R.—The Himachal Pradesh Armed Bands (Arrest and Detention) Bill, 1969, (Bill No. 9 of 1969), after having received the assent of the President on the 15th January, 1971, under sub-section (2) of

section 25 of the Government of Union Territories Act, 1963 (Act No. 20 of 1963) is hereby published in the Rajpatra, Himachal Pradesh as Act No. 1 of 1971.

JOSEPH DINA NATH,
Under Secretary (Judicial).

Act No. 1 of 1971.

THE HIMACHAL PRADESH ARMED BANDS (ARREST AND DETENTION ACT, 1969

ACT

to provide for the arrest and punishment of members of armed bands.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Armed Bands (Arrest and Detention) Act, 1969.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force in such areas and on such date or dates as the State Government may, by notification, direct in this behalf.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

(a) "Arms" has the meaning given to it in the Arms Act, 1959 and includes any weapon or thing capable of being used as weapons, which if used for offence, is likely to cause grievous hurt or death, but does not include licensed arm or arms for which no licence under the provisions of the said Act or the rules made thereunder, is required;

(b) "Armed Band" means any assembly or group of five or more persons, all or any of whom carry or carries arms:

Provided that no public servant, who carries any arms in pursuance of his duties as such public servant, shall be treated as member of an armed band:

(c) "The Code" means the Code of Criminal Procedure, 1898:

(d) "Detention Camp" means any camp established by or under the authority of State Government for the detention of persons contravening any of the provisions of this Act:

(e) "Grievous hurt" has the meaning given to it in section 320 of the Indian Penal Code, 1860:

(f) "Public servant" has the meaning given to it in section 21 of the Indian Penal Code, 1860:

(g) "State Government" means the Government of Himachal Pradesh.

(2) Words and expressions used but not defined in this Act, shall have the meanings assigned to them in the Code.

3. (1) Any Magistrate and any Police Officer not below the rank of Station House Officer may arrest without warrant any member of an armed band, and if resistance is offered to the arrest, may fire upon or otherwise use force, even to the causing of death, in order to effect such arrest.

(2) The procedure laid down in sections 41 to 53 of the Code shall be, as far as may be, applicable to arrests effected under sub-section (1).

4. (1) The Officer effecting the arrest shall, with all convenient speed, take or send the arrested person to the officer-in-charge of the nearest detention camp.

(2) The officer in-charge of a Detention Camp may pending trial keep the arrested person in detention for a period not exceeding one month.

Power to establish Detention Camps.

5. (1) The State Government, and with the authority of the State Government, the District Magistrate within the area under his jurisdiction may establish Detention Camps.

(2) The State Government may, by general or special order, prescribe the organisation of such camps and determine the conditions as to maintenance, discipline and the punishment of offences and breaches of discipline which shall be applicable to persons kept in custody in such camps.

Offences and penalties.

6. (1) Whoever is a member of an armed band shall, on conviction for such offence by a competent criminal court, be punished with imprisonment of either description which may extend to three years or with fine or with both.

(2) Whoever, being a member of an armed band, resists his arrest by or under the orders of a duly authorised officer shall, on conviction for such offence by a competent criminal court, be punished with imprisonment of either description which may extend to seven years or with fine or with both.

Procedure.

7. Notwithstanding anything to the contrary contained in the Code, any magistrate trying an offence under this Act may, if he thinks fit, try any such offence summarily according to the procedure prescribed in Chapter XXII of the Code.

8. Notwithstanding anything contained in the Code, any offence punishable under this Act, shall be non-bailable.

9. Notwithstanding anything contained in the Code, no person accused of an offence made punishable by this Act shall, if in custody, be released on bail or on bond unless,—

(a) the prosecution has been given an opportunity to oppose the application for such release, and

(b) where the prosecution opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence.

10. No prosecution, suit or other legal proceedings, shall be instituted, except with the previous sanction of State Government, against any person in respect of anything done or purporting to be done in exercise of the powers conferred under sections 3 and 4 of this Act, or under any order made under sub-section (2) of section 5.

11. Nothing contained in this Act, shall be deemed to prevent any person from being prosecuted under any other law for any act which constitutes an offence punishable under this Act:

Provided that no person shall be prosecuted and punished for the same offence more than once.

12. East Punjab Armed Bands (Arrest and Detention) Act, 1947 is hereby repealed:

Provided that anything done or any action taken (including any order made, notification or direction issued, detention camp established or proceedings commenced or continued) under any of the provisions of the said Act shall be deemed to have been done or taken under the corresponding provision of this Act.